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June 30, 2006

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: MB Docket No. 03-15
*In the Matter of Second Periodic Review of the Commission's Rules and Policies
Affecting the Conversion to Digital Television*
Waiver of July 1, 2006 Digital Replication Deadline
KDLH(TV), Duluth, Minnesota, Facility ID No. 4691

Dear Ms. Dortch:

Malara Broadcast Group of Duluth Licensee, LLC, the licensee of KDLH(TV) and permittee of KDLH-DT, Duluth, Minnesota, Facility ID No. 4691 ("KDLH"), by its attorneys, hereby submits this request for a waiver and six month extension of the July 1, 2006 deadline by which a station outside of the top-100 markets must replicate or lose interference protection ("Replication Deadline").¹ As further set forth herein, KDLH cannot fully replicate its certified facilities because its application for minor modification of its digital television ("DTV") construction permit remains pending. For these and other reasons set forth herein, KDLH submits that grant of a waiver and extension of the Replication Deadline would be in the public interest.

Licensees, like KDLH, that receive a tentative DTV channel designation on their current digital channel must construct full, authorized DTV facilities by July 1, 2006. In its Form 381 Pre-Election Certification, KDLH certified that it would operate its post-transition DTV station based on its allotted replication facilities.² On May 19, 2006, KDLH filed a Form 301

¹ See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Order*, 19 FCC Rcd 18,279 (rel. Sept. 7, 2004) ("*Second Periodic Review Order*").

² See BCERCT-20041104AJZ.

application for minor modification of its DTV construction permit. In its June 14, 2006 Public Notice, the Federal Communications Commission ("Commission") stated as follows: "If such licensee has not received approval of its modification application prior to the Replication Deadline, then it should file a request for waiver of the interference protection deadline."³ Because the Minor Mod Application remains pending, and because grant of such application is outside of KDLH's control, KDLH is seeking a waiver consistent with the Public Notice. Upon grant of the Minor Mod Application, KDLH will be prepared to commence construction. KDLH anticipates that all construction, including an antenna replacement, will take approximately three weeks to complete. Upon completion of construction and necessary tests, KDLH promptly will file an application for license.

This waiver request is further justified because of circumstances that prevented KDLH from filing the Minor Mod Application. Filing of the Minor Mod Application was delayed because of the unusual antenna characteristics necessitated by the weight limitations of KDLH's tower. Specifically, KDLH had to find an antenna that could serve its required purpose without exceeding the tower's restrictive weight limitations. No U.S. antenna manufacturer could comply with these requirements. KDLH ultimately located an antenna manufacturer in Australia who could supply the required antenna; however, that manufacturer's shipment was delayed because of a shortage of steel in the Australasian market. These delays in finding an appropriate antenna were beyond KDLH's control. Upon finalizing its antenna purchase, KDLH has taken all other reasonable steps in advance of the application grant in order to expedite construction.⁴

As set forth herein, KDLH cannot complete construction of its DTV facilities prior to the Replication Deadline due to circumstances beyond its control—namely, the pending status of its Minor Mod Application and delays in obtaining an appropriate antenna. Thus, KDLH respectfully requests that the Commission grant a waiver and extension of the Replication Deadline. KDLH also requests that the Commission extend the term of its DTV STA so that KDLH may continue to serve its viewers with a digital signal.⁵

Please direct any questions or inquiries regarding this matter to the undersigned.

Respectfully submitted,



Stuart A. Shorenstein, Esq.

cc: Shaun Maher, Esq. (via e-mail)

³ See DTV Channel Election Issues – Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline, DA 06-1255, *Public Notice*, at 3 (rel. June 14, 2006).

⁴ For example, KDLH scheduled its tower crew services well in advance and this crew is scheduled to arrive in late July 2006.

⁵ Per the informal advice of the FCC staff, KDLH is filing a separate letter request seeking extension of its DTV STA.